

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

SUSAN K. KONKLE, RENEE A. STOUDER,)	
TONY KONKLE, and JEFFREY STOUDER,)	
)	
PLAINTIFFS)	
VS.)	CIVIL NO. 3:23-cv-70
)	
TRINA F. CARLSON and)	
ND&L, LLC d/b/a NOW DELIVERY,)	
)	
DEFENDANTS)	

COMPLAINT FOR DAMAGES AND JURY DEMAND

Plaintiffs, Susan K. Konkle, Renee A. Stouder, Tony Konkle and Jeffrey Stouder, by counsel, J. Spencer Feighner and Lindsey C. Swanson, for their Complaint for Damages against Defendants, Trina F. Carlson and ND&L, LLC d/b/a Now Delivery, allege and state as follows:

PARTIES, JURISDICTION, AND VENUE

1. The amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest, costs and attorneys' fees.
2. Plaintiffs Susan Konkle ("Susan") and Tony Konkle ("Tony") are residents of and are domiciled in Rochester, Fulton County, Indiana.
3. Plaintiffs Renee Stouder ("Renee") and Jeffrey Stouder ("Jeffrey") are residents of and domiciled in Bourbon, Marshall County, Indiana.
4. Defendant Trina F. Carlson ("Carlson") is a resident of and domiciled in Stanwood, Mecosta County, Michigan.
5. Defendant ND&L, LLC d/b/a Now Delivery ("Now Delivery") is a Michigan limited liability company, with its principal place of business located at 4580 Airwest Drive SE,

Kentwood, Michigan 49512. Now Delivery is a shipping, delivery, courier and brokerage services company that provides trucking services to clients in the State of Michigan and throughout adjoining states, including the State of Indiana.

6. As a Michigan Limited Liability Company, ND&L, LLC's citizenship is determined by the citizenship of its members. Upon information and belief, ND&L, LLC is owned by member Scott Mulder, an individual who is a resident of and domiciled in the State of Michigan.

7. The acts and occurrences which form the basis of this Complaint occurred within Miami County, Indiana.

8. This District Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332.

FACTUAL ALLEGATIONS

9. Carlson was an employee of Now Delivery at all material times to this Complaint.

10. On February 11, 2021, at approximately 10:53 a.m., Carlson, in the course and scope of her employment for Now Delivery, was driving a 2016 International conventional cab style tractor and trailer southbound on U.S. 31 approaching the intersection of Business 31.

11. At the same approximate time and location, Susan was operating a 2007 Ford F-150 pickup truck southbound on U.S. 31 and was stopped at the red traffic signal at the intersection of U.S. 31 and Business 31. Renee was sitting in the passenger seat of the 2007 Ford F-150 pickup truck.

12. Carlson was operating the 2016 International tractor at a high rate of speed and was inattentive to the vehicles in front of her as she was attending to her young daughter in the tractor's cab. Carlson was inattentive to the vehicles in front of her, failed to maintain a proper safe lookout, failed to yield or otherwise stop her vehicle while approaching the intersection

despite having a red traffic signal. Carlson's actions constituted negligence and caused her vehicle to strike the vehicle driven by Susan at a high rate of speed, striking the vehicle in its rear and driving it through the intersection and into a ditch adjoining U.S. 31 well beyond the intersection.

13. Carlson failed to brake or otherwise slow her vehicle prior to crash and is 100% at fault for the crash and the damages suffered by the Plaintiffs.

14. The collision caused extensive damage to the 2007 Ford F-150 pickup truck and both Susan and Renee were trapped inside the vehicle and had to be extricated by emergency personnel at the scene of the crash. Both Susan and Renee were air lifted from the crash scene to a Fort Wayne hospital for emergency medical attention.

STATEMENT OF INJURIES AND DAMAGES

15. As a proximate result of the negligence of Carlson in the course and scope of her employment with Now Delivery, Susan has sustained damages including medical expenses in excess of \$100,000.00, extensive physical injuries to her neck and back, multiple fractured ribs, a scapular fracture and injuries to other areas of her body, as well as pain, suffering and lost earnings.

16. As a proximate result of the negligence of Carlson in the course and scope of her employment with Now Delivery, Renee has sustained damages including medical expenses in excess of \$100,000.00, extensive physical injuries to her neck, back, face, jaw, and eye, a closed head injury, fractures to her left arm, as well as pain, suffering and lost earnings.

17. As a proximate result of the negligence of Carlson in the course and scope of her employment with Now Delivery, Tony has been deprived of the services and consortium of his wife Susan due to the injuries she sustained in the crash.

18. As a proximate result of the negligence of Carlson in the course and scope of her employment with Now Delivery, Jeffrey has been deprived of the services and consortium of his wife Renee due to the injuries she sustained in the crash.

WHEREFORE, Plaintiffs, Susan K. Konkle, Renee A. Stouder, Tony Konkle and Jeffrey Stouder, by counsel, pray for judgment for all just and reasonable compensation to fully compensate the Plaintiffs for all damages sustained, costs, prejudgment interest, and for all other just and proper relief.

Respectfully submitted,

HALLERCOLVIN PC
ATTORNEYS FOR PLAINTIFFS
444 EAST MAIN STREET
FORT WAYNE, INDIANA 46802
TELEPHONE: (260) 426-0444
EMAIL: jsf@hallercolvin.com
EMAIL: lswanson@hallercolvin.com

BY: /s/ J. Spencer Feighner
J. SPENCER FEIGHNER, #27099-02
LINDSEY C. SWANSON, #29507-02

JURY DEMAND

Plaintiffs, Susan K. Konkle, Renee A. Stouder, Tony Konkle and Jeffrey Stouder, by counsel, demand trial by jury in the above cause.

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EMAIL: jsf@hallercolvin.com
EMAIL: lswanson@hallercolvin.com

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